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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,101	10/17/2005	Arne B. Wallin	5146-06-14 (WALLIN-06.PCT)	2487
55678	7590	05/29/2009	EXAMINER	
Miltons LLP 225 Metcalfe Street Suite 700 Ottawa, ON K2P 1P9 CANADA			LAUX, JESSICA L	
			ART UNIT	PAPER NUMBER
			3635	
			MAIL DATE	DELIVERY MODE
			05/29/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,101	<b>Applicant(s)</b> WALLIN, ARNE B.	
	<b>Examiner</b> JESSICA LAUX	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

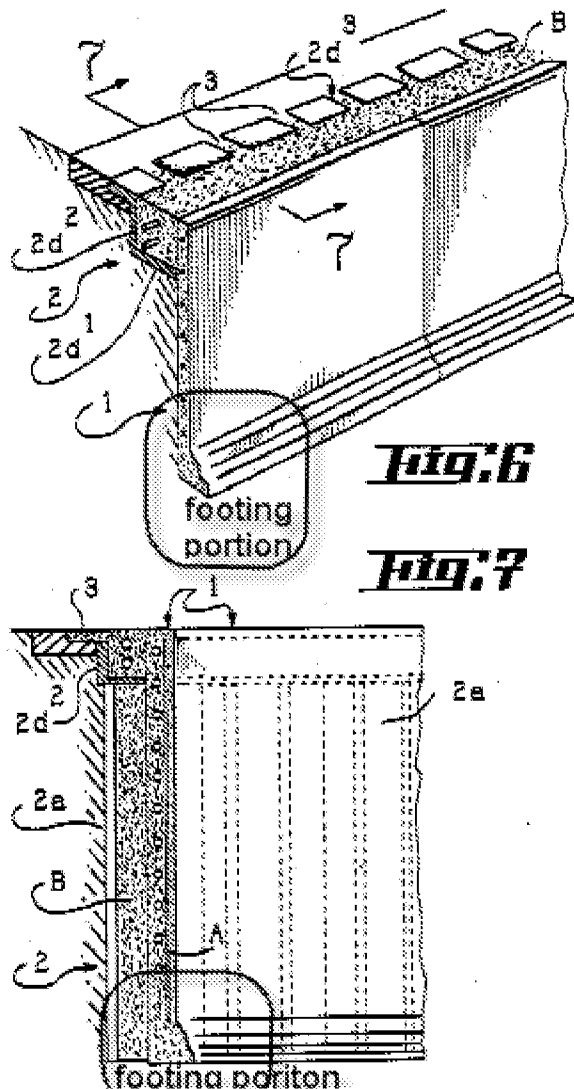
- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 2/10/2009 have been fully considered but they are not persuasive.

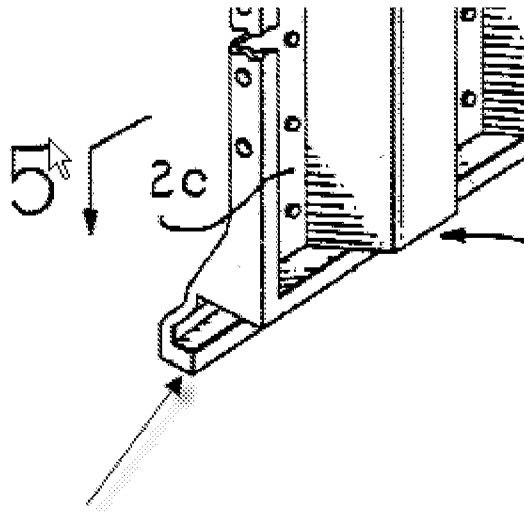
Regarding applicant's arguments as they pertain to claims 1, 15; the form of Desjoyaux does include a downwardly open footing volume that will contain binder material poured in and in communication with the wall portion, as can be seen in figures 6-7 where the cast footing portion is clearly continuous with the wall portion (see also the rejection explanation of claim 1 and attached figure as below).



Regarding applicant's arguments as they pertain to claims 3-5, see rejection statement/explanation below.

The reinforcing "A" of Desjoyaux does extend into the footing portion as can clearly be seen in figure 7 and therefore does act as a coupling means as reinforcing is used to provide strength and support to cast materials.

Regarding applicant's arguments as they pertain to an inwardly bent edge; Desjoyaux does disclose on inwardly bent edge as indicated at the arrow below.



Regarding applicant's arguments as they pertain to claim 13; they are merely conclusory and do not provide fact, evidence or a statement of any kind that the wall portion, footing forms and flange forms of Desjoyaux are not fastened by embedment of the wall panel and interrupted from alignment. It is the opinion of the examiner that the structure of Desjoyaux does disclose such features, specifically it can be seen from the figures and the disclosure of col. 3-4 that the wall portion and footing form (as seen as element 1) and flange forms (as seen as element 2) are indeed all connected by embedment with the wall portion (for example as seen in figures 12-14, which clearly shows all elements are connected by embedment within the wall portion).

Regarding applicant's arguments as they pertain to claim 14: the structure of 2d certain is notched in that it provides an open access area that is capable of receiving a beam, thus rendering it a beam support post. Applicant's has not provided remarks or amendments to the claimed structure of the beam support post that structurally distinguishes it over the element 2d of Desjoyaux.

Regarding applicant's arguments as they pertain to claim 20; the elements of House are clearly designed and used to form multiple tiers of a building structure, and further House disclose connecting horizontally or vertically adjacent sections (i.e. first and second building walls) of the panels.

Regarding applicant's argument as they pertain to claim 16; the method of casting the material of the relied upon references is moot. The references are merely provide, cited and relied upon for the teaching of providing reinforcing in a cast footing to improve strength characteristics of the footing. The references are not "so far removed" as applicant claims as all references relate to cast footings and wall structures.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification and drawings are enabling for a positioning plate as claimed however they do not provide enable for how the plate works in conjunction with the wall panel system as a whole including the footing. The claims are drawn to a wall panel system including an integral footing upon which the flanges connect. The drawings and

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specification are not enabling for how the positioning plate structurally relates to the claimed wall system.

Applicant's remarks regarding the 112 rejection show where the specification and drawings provide support for the plate being included in the structure, but nowhere does that disclosure provide sufficient explanation to enable one skilled in the art to understand how the plate works with the system as a whole. For example the claims, drawings and specification indicate that the footing portion is below the wall portion of the wall panel, it is therefore unclear how the plate structure is under the corner piece and base ends of the walls when the footing portion is disclosed and claimed as being proximate the base end of the wall panel. There is a lack of enabling disclosure relating the structure of the plate to the footing when in an assembled state.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6, 8-10, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Desjoyaux et al (5111628).**

Claim 1. Desjoyaux discloses a preformed wall panel having base and top ends and two vertical side edges, comprising:

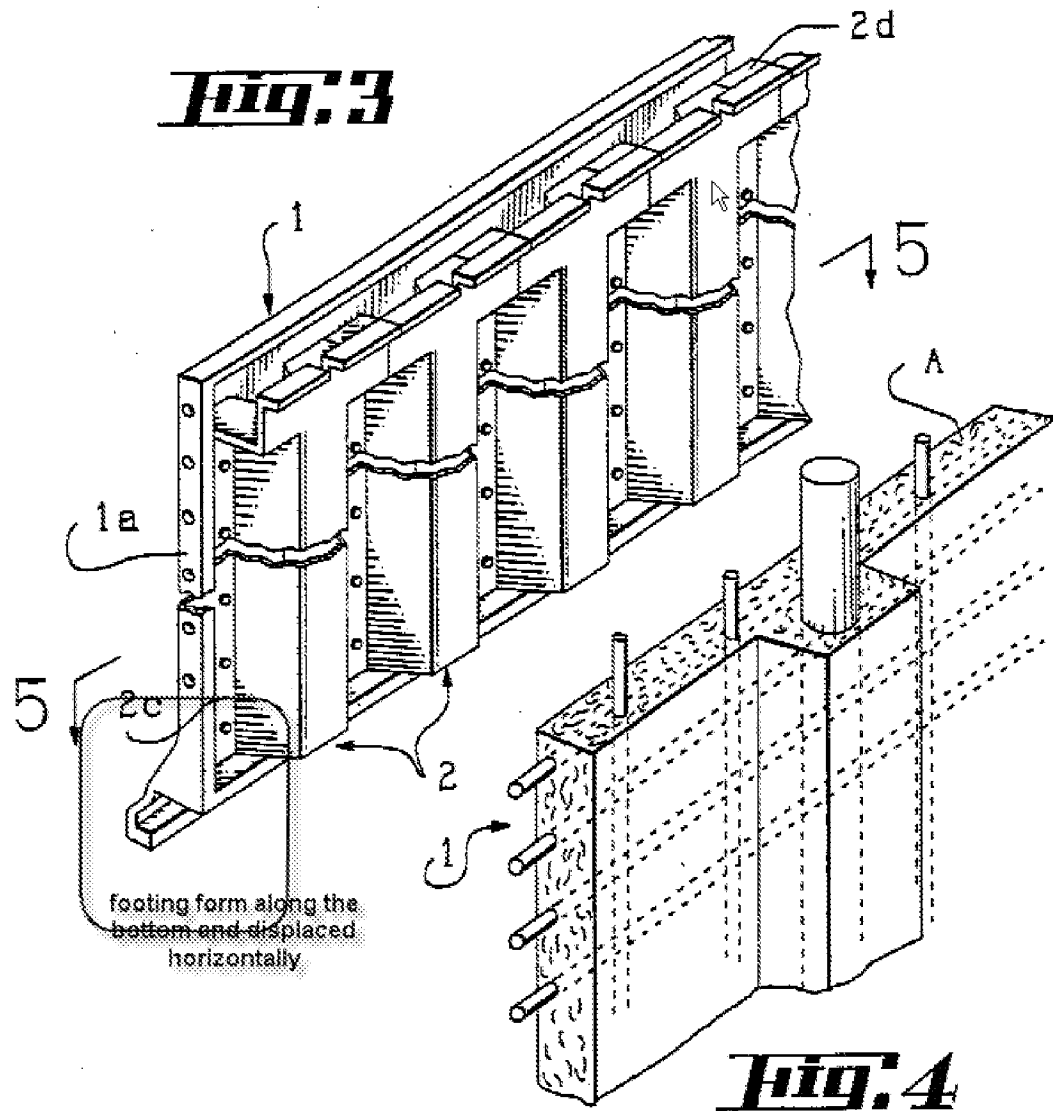
a) a wall portion having a width and height fitted with a vertical flange form (2) with an interior flange volume for creating a flange on the wall portion when filled with binder material; and

b) a footing form (generally at the bottom of the form) fitted along the wall portion proximate to but displaced horizontally (as seen in the disclosed figure below) the base

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end of the wall panel to provide a downwardly open footing volume, wherein said vertical flange form and footing form define interconnected volumes and wherein said forms serve to contain binder material poured into the footing form through the vertical flange form to provide said wall portion with both a flange and a footing (where the portion clearly extends horizontally from the base of the wall portion and has material cast therein as noted above), and wherein the footing form of the panel extends along the base end of the panel for the width of the panel to provide a continuous footing volume whereby the footing form can be filled with a continuous volume of binder material that serves as the footing along the base end of the panel (as seen in figures 3-7).





Claim 2. A preformed wall panel as in claim 1 comprising a trough form mounted along the top end of the wall portion defining a trough volume (generally seen near 2d of figures 3-7) that communicates with said flange volume for receiving binder material at the same time that the vertical and footing forms are being filled with binder material.

Claims 3-5. A wall panel as in claim 1 comprising reinforcing coupling means (such as wire reinforcing ties, see note below) protruding from said wall portion into any one or more of said flange, footing or trough volumes to position and support reinforcing rod to be placed within said one or more volumes for connecting and supporting the volumes (Col. 3, lines 18-22, where Desjoyaux disclose reinforcing within the wall portion and connecting it to reinforcing in one of said flange, footing or trough volumes; it is known to interlace vertical and horizontal bars with wire reinforcing ties; as seen in figures 4,7; accordingly the reinforcing of the wall portion acts as a reinforcing support for the reinforcing of the flange, footing or trough volumes).

Claim 6. A wall panel as in claim 5 comprising flange-to-footing coupling means extending between the flange form volume and the footing volume to provide reinforcement for binder material to be cast therein (as seen in figures 7 where A is vertical reinforcing coupling means between the flange and foot portion).

Claim 8. A wall panel as in claim 1 wherein said footing form has an outer edge remote from said wall portion which outer edge is positioned beneath the base of the wall portion when the wall portion is suspended in a vertical plane, said footing form being made of a resilient material that will allow the outer edge to become aligned with the base end of the wall portion when the preformed wall panel is placed on a horizontal surface (as seen in figures 1-3).

Claim 13. A preformed wall panel as in claim 1 wherein the material for the flange (2) and footing forms (as part of the wall portion and the cast material) is of sheet material which is fastened by embedment to the panel wall portion (1) of edges of the

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sheet material which edges are interrupted from alignment in a straight line so as to reduce the tendency for cracks to proliferate in the wall portion (Cols. 3-4).

Claim 14. A preformed wall panel as in claim 1 comprising a beam support post form (generally at 2d) fitted to said wall portion, said beam support post form being notched at its upper end, below the top end of the wall panel, and capable of receiving the end of a beam, and providing an upwardly extending open volume adjacent said wall panel for receiving binder material (as seen in the figures, specifically figures 6-7).

Claim 15. A building wall system comprising a plurality of panels as in claim 1 for mounting on a base surface wherein the footing forms of the respective panels are aligned to provide against said base surface a series of continuous, interconnected footing volumes extending between consecutive footing forms of each panel whereby the footing forms can be filled with a continuous volume of binder material that serves as the footing for the wall (Cols. 3-5; figure 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 12, 15, 17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over House et al (5588786) in view of Desjoyaux et al (5111628).**

Claims 1, 12, 15, 17, 20. House discloses a preformed wall panel having base and top ends and two vertical side edges, comprising:

a) a wall portion having a width and height fitted with a vertical flange form with an interior flange volume (as seen in the figures; i.e. 30,38 as seen in figure 2) for creating a flange on the wall portion when filled with binder material; and further comprising two wall sections meeting at an angle and further comprising a corner piece having vertical faces shaped to abut the vertical side edges of adjacent wall panels of said respective wall sections, said adjacent wall panels having vertical half-forms mounted along said abutting vertical side edges and further comprising a joiner piece for joining said respective half-forms and protruding coupling means (any of elements 134,136;272,274;288,290) to become embedded in the concrete of the corner piece (as seen in figures 1-8); and further where said wall panels are for serving as the first tier in a multiple-tiered wall, in combination with a second building wall as in claim 15 to form a second tier for said multiple tiered wall, said second building wall being positioned on top of said first building wall (for example as seen in figure 3, where the elements are clearly for serving as forming multiple tiers of building walls).

House discloses the protruding coupling means but does not expressly disclose that they are precast into the inner surface of the corner piece. At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the coupling means of House to be integral with the corner piece to provide efficient assembly of the elements.

House discloses that the wall panels are placed on a footing but does not expressly disclose that the footing is continuous and connected to the wall panel and flanges.

Desjoyaux et al discloses a preformed wall panel (as noted above) having vertical flange form volumes (as presented above) and further having a footing form (generally at the bottom of the form) fitted along the wall portion proximate to, but displaced horizontally from the base end of the wall panel to provide a downwardly open footing volume, wherein said vertical flange form and footing form define interconnected volumes and wherein said forms serve to contain binder material poured into the footing form through the vertical flange form to provide said wall portion with both a flange and a footing, and wherein the footing form of the panel extends along the base end of the panel for the width of the panel to provide a continuous footing volume whereby the footing form can be filled with a continuous volume of binder material that serves as the footing along the base end of the panel (as seen in figures 3-7); wherein the footing forms of the respective panels are aligned to provide against said base surface a series of continuous, interconnected footing volumes extending between consecutive footing forms of each panel whereby the footing forms can be filled with a continuous volume of binder material that serves as the footing for the wall (Cols. 3-5; figure 6).

At the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the wall panel system of House to have a continuous and connected footing form as disclosed by Desjoyaux to provide an efficient wall panel system that is easily assembled (where the footing does not need to be made prior to the placement of the wall).

**Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over House et al (5588786) in view of Desjoyaux et al (5111628) and referenced by US Patents 6332599 and 6244005.**

Claim 16. House in view of Desjoyaux disclose the building wall system as in claim 15 but do not expressly disclose the panel comprising reinforcing means laid in the interconnected footing volumes before they are filled with binder material to become embedded therein once the forms are filled with binder material.

However it is notoriously common and well known in the art to provide reinforcing within a footing to prevent cracking and provide the required structural strength to the footing. US Patents 6332599 and 6244005 both disclose wall panel systems having footings where there is additional reinforcing laid in the footing volumes.

In view of the prior art it would have been obvious at the time the invention was made to modify the wall panel as presented above to have reinforcing within the footing volumes to improve the strength and structural soundness of the footing.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Desjoyaux et al (5111628) in view of Wallin (6244005) or Palmer (2200636)**

Claim 7. Desjoyaux discloses the wall panel as in claim 6, but does not expressly disclose that said flange-to-footing coupling means connects with said reinforcing rod positioned within the footing volume. Both Wallin and Palmer disclose that it is known to provide flange to footing coupling means in a wall construction (as seen in the figures). Therefore at the time the invention was made it would have been obvious to one of ordinary skill in the art to modify the wall system of Desjoyaux to have

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flange to footing reinforcing to provide a strong and structurally sound connection between the wall and footing to evenly distribute forces applied to the wall system.

***Allowable Subject Matter***

Claims 18-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Allowable Subject Matter***

Claims 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter of claim 8: Desjoyaux and the prior art either alone or in combination do not disclose an outer edge portion that is initially below the wall portion in one position and then is capable of becoming aligned (indicating movement of the outer edge relative to the wall portion) with the wall portion when placed. Desjoyaux and the prior art disclose stationary outer edges not movable ones.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA LAUX whose telephone number is (571)272-8228. The examiner can normally be reached on Monday thru Thursday, 9:00am to 5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

/J. L./  
Examiner, Art Unit 3635